IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA)
)
v.) Criminal No. 09-74
) [UNDER SEAL]
RASHAWN EUGENE BOLTON)
a/k/a Shawn Jeter)

INDICTMENT MEMORANDUM

AND NOW comes the United States of America, by its attorneys, Mary Beth Buchanan, United States Attorney for the Western District of Pennsylvania, and Charles A. Eberle, Assistant United States Attorney for said District, and submits this Indictment Memorandum to the Court:

I. THE INDICTMENT

A Federal Grand Jury returned a three-count Indictment against the above-named defendant for alleged violations of federal law:

COUNT	OFFENSE/DATE	TITLE/SECTION
1 and 2	Distribution and possession with intent to distribute 5 gram or more of a mixture and substance containing a detectable amount of cocaine base, in the form commonly known as crack, a Schedule II controlled substance. On or about April 16, 2008 (Count 1) On or about April 21, 2008 (Count 2)	21 U.S.C. §§ 841(a)(1) and 841(b)(1)(B)(iii)

3	Distribution and possession with intent to distribute 50 grams or more of a mixture and substance containing a detectable amount of cocaine base, in the form commonly known as crack, a Schedule II controlled substance. On or about April 25, 2008	21 U.S.C. §§ 841(a)(1) and 841(b)(1)(A)(iii)

II. ELEMENTS OF THE OFFENSES

A. As to Counts 1 and 2:

In order for the crime of distribution and possession with intent to distribute 5 grams or more of a mixture and substance containing a detectable amount of cocaine base, in the form commonly known as crack, a Schedule II controlled substance, in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(B)(iii), to be established, the government must prove all of the following essential elements beyond a reasonable doubt:

1. That on or about the dates set forth, the defendant distributed or possessed with intent to distribute the controlled substance charged in the indictment.

> United States v. Lartey, 716 F.2d 955, 967 (2d Cir. 1983); United States v. Wright, 593 F.2d 105, 107-108 (9th Cir. 1979); United States v. Tighe, 551 F.2d 18, 21 (3d Cir.), cert. denied, 434 U.S. 823 (1977).

2. That the defendant did so knowingly and intentionally.

> United States v. Jewell, 532 F.2d 697, 699-700 (9th Cir.), cert. denied, 426 U.S. 951 (1976); United States v.

Kairouz, 751 F.2d 467, 469 (1st Cir. 1985).

3. That cocaine base is a Schedule II controlled substance, pursuant to 21 U.S.C. § 812(c), Schedule II(a)(4).

4. That the mixture or substance containing a detectable amount of cocaine base was 5 grams or more. 21 U.S.C. § 841(b)(1)(B)(iii).

Apprendi v. New Jersey, 530 U.S. 466 (2000).

B. As to Count 3:

In order for the crime of distribution and possession with intent to distribute 50 grams or more of a mixture and substance containing a detectable amount of cocaine base, in the form commonly known as crack, a Schedule II controlled substance, in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(A)(iii), to be established, the government must prove all of the following essential elements beyond a reasonable doubt:

1. That on or about the dates set forth, the defendant distributed or possessed with intent to distribute the controlled substance charged in the indictment.

United States v. Lartey, 716 F.2d 955, 967 (2d Cir. 1983); United States v. Wright, 593 F.2d 105, 107-108 (9th Cir. 1979); United States v. Tighe, 551 F.2d 18, 21 (3d Cir.), cert. denied, 434 U.S. 823 (1977).

2. That the defendant did so knowingly and intentionally.

United States v. Jewell, 532 F.2d 697, 699-700 (9th Cir.), cert. denied, 426 U.S. 951 (1976); United States v. Kairouz, 751 F.2d 467, 469 (1st Cir. 1985).

3. That cocaine base is a Schedule II controlled substance, pursuant to 21 U.S.C. § 812(c), Schedule II(a)(4).

4. That the mixture or substance containing a detectable amount of cocaine base was 50 grams or more. 21 U.S.C. § 841(b)(1)(A)(iii).

Apprendi v. New Jersey, 530 U.S. 466 (2000).

III. PENALTIES

A. As to Counts 1 and 2: Distribution and possession with intent to distribute 5 grams or more of a mixture and substance containing a detectable amount of cocaine base, in the form commonly known as crack, a Schedule II controlled substance (21 U.S.C. §§ 841(a)(1) and 841(b)(1)(B)(iii)):

1. A term of imprisonment of not less than five (5) years to a maximum of forty (40) years.

2. A fine not to exceed $2,000,000.

3. A term of supervised release of at least four (4) years.

For a second or subsequent felony drug conviction that is final, whether federal, state, or foreign:

1. A term of imprisonment of not less than ten (10) years to a maximum of life.

2. A fine not to exceed $4,000,000.

3. A term of supervised release of at least eight (8) years.

B. As to Count 3: Distribution and possession with intent to distribute 50 grams or more of a mixture and substance containing a detectable amount of cocaine base, in the form commonly known as crack, a Schedule II controlled substance (21 U.S.C. §§ 841(a)(1) and 841(b)(1)(A)(iii)):

1. A term of imprisonment of not less than ten (10) years to a maximum of life.

2. A fine not to exceed $4,000,000.

3. A term of supervised release of at least five (5) years.

For a second felony drug conviction that is final, whether federal, state, or foreign:

1. A term of imprisonment of not less than twenty (20) years to a maximum of life.

2. A fine not to exceed $8,000,000.

3. A term of supervised release of at least ten (10) years.

For a third or subsequent felony drug conviction that is final, whether federal, state, or foreign:

1. A mandatory sentence of life imprisonment.

2. A fine not to exceed $8,000,000.

IV. MANDATORY SPECIAL ASSESSMENT

A mandatory special assessment of $100.00 must be imposed at each count upon which the defendant is convicted, pursuant to 18 U.S.C. § 3013.

V. RESTITUTION

Not applicable in this case.

VI. FORFEITURE

Not applicable in this case.

Respectfully submitted,

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